



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2017-0911]

RIN 1625-AA09

Drawbridge Operation Regulation; Red River, Shreveport, LA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating schedule that governs the draws of the Union Pacific Railroad bridge, mile 227.0, and the Midsouth Railroad bridge, mile 228.2, across the Red River at Shreveport, LA. This final rule will allow for the drawbridges to remain in the closed-to-navigation position. While there is vessel traffic on the waterway, no one has requested that either drawbridge be open since 2007. Union Pacific Railroad and Midsouth Railroad, the bridge owners, requested to update the operating schedule accordingly.

DATES: This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-0911. In the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone 314-269-2378, e-mail Eric.Washburn@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<i>Federal Register</i>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On June 21, 2018, we published a notice of proposed rulemaking (NPRM) entitled *Drawbridge Operation Regulation; Red River, Shreveport, LA* in the *Federal Register* (83 FR 28785). We received 9 comments on this rule.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499. This rule changes the operating schedule for two bridges by revising the regulations governing the Red River drawbridge operating requirements under 33 CFR 117.491(c). Currently, this operating schedule applies to the draws of all bridges on the Red River from, mile 105.8 through mile 234.4. The operating schedule changes will allow the drawbridges to remain closed to the passage of vessels. However, pursuant 33 CFR 117.39, this rule includes a provision that requires the owner or agency controlling the bridge to bring the draw into full operational capability within three months if the District Commander provides a notification that needs of navigation require resumed operation of the spans.

Navigation on the Red River in the vicinity of these bridges consists primarily of recreational craft, and commercial use of the waterway is only possible during periods of high water. Moreover, the U.S. Army Corps of Engineers does not maintain any project depth or navigable channel on this reach of the Red River, nor does the U.S. Coast Guard maintain any aids to navigation above mile 211.4. Under 33 CFR 117.491(d), the bridges above mile 234.4 need not open for the passage of vessels. There are no alternate routes for vessels transiting this section of the Red River.

Union Pacific Railroad owns the Union Pacific Railroad bridge, mile 227.0, across the Red River at Shreveport, LA, and has requested that the drawbridge regulation be amended to allow the bridge to remain in the permanently closed position. Union Pacific provided the Coast Guard with bridge logs that indicate that there has been no request for a bridge opening since 2007. In the closed position, the Union Pacific Railroad bridge, mile 227.0, provides 15.1 feet of vertical clearance at mean high water.

Midsouth Railroad owns the Midsouth Railroad bridge, mile 228.2, across the Red River at Shreveport, LA, and has also requested that the drawbridge remain in the permanently closed position. Midsouth Railroad provided the Coast Guard with bridge logs that indicate that there has been no request for a bridge opening since 2007. In the closed position, the Midsouth Railroad bridge, mile 228.2, provides 37.0 feet of vertical clearance at mean high water.

Under 33 CFR 117.39, the District Commander may authorize a drawbridge to remain in the closed to navigation position and be untended when there have

been no requests for drawbridge openings for two years. Due to the lack of significant navigation on this portion of the Red River that requires draws to open and the fact that there has been no request to open the draws in over ten years, the Coast Guard believes that this rule is reasonable and should continue to meet the present and future needs of navigation. Based on the records provided by Union Pacific Railroad and Midsouth Railroad, it is expected that the change will have no known impact to navigation or other waterway users.

IV. Discussion of Comments, Changes, and the Final Rule

The Coast Guard provided a comment period of 60 days and nine comments were received. All nine comments were concerned the drawbridges will be permanently closed-to-navigation. The intent for the rule change is not to permanently close the draws, but allow for the drawbridges to remain in the closed-to-navigation position until the need of navigation resumes, at which time the draws will be required to open within three months notice from the District Commander.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive Orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and

benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the logs that were provided by the bridge owners indicating that there has been no request for a bridge opening since 2007. Moreover, once the needs of navigation require the resumed operation of the spans, the owner or agency of the drawbridges will be notified by the District Commander to restore the draws to full operation within three months.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. While some owners or operators of vessels

intending to transit the bridge may be small entities, for the reasons stated in section V.A above this final rule would not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132,

Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which

guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f), and have made a determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under figure 2-1, paragraph (32)(e), of the Instruction.

A Record of Environmental Consideration and a Memorandum for the Record are not required for this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; and Department of Homeland Security Delegation No. 0170.1.

2. Amend § 117.491 by revising paragraph (c) to read as follows:

§ 117.491 Red River.

* * * * *

(c) The draws of the bridges above mile 105.8 through mile 234.4 need not open for passage of vessels. The owner or agency controlling the bridge must restore the draw to full operation within three months if notified by the District Commander that the needs of navigation require resumed operation of the spans.

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Dated: April 29, 2019.

P. F. Thomas,
Rear Admiral, U.S. Coast Guard,
Commander, Eighth Coast Guard District.
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